

REMARKS

This Application has been carefully reviewed in light of the first Office Action mailed July 26, 2005 (“Office Action”). To clarify various aspects of inventive subject matter, Applicant amends Claims 1-4, 15-17, 23-32, 38-71, 73-77, and 85. Applicant also introduces new Claims 89-116, and cancels Claims 5-14, 18-22, 35-36, 72, 78-84, and 86-88 without prejudice or disclaimer. To advance prosecution of this application, Applicant has responded to each notation by the Examiner. Applicant submits that all of the pending claims are allowable over the cited references. Applicant respectfully requests reconsideration, further examination, and favorable action in this case.

Oath/Declaration

The Office Action indicated that the Oath or Declaration is defective because it does not include “the notary’s signature or the notary’s signature is in the wrong place.” Applicant submits that the signed Declaration filed on April 17, 2002, in response to a notice to file missing parts does not require a notary signature.

Claim Rejections – 35 U.S.C. §112

The Office Action rejected Claims 49-57 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Particularly, the Office Action indicated that the Claim 49 lacked antecedent basis. Claim 49 has been amended. Accordingly, Applicants request removal of these rejections.

Claim Rejections – 35 U.S.C. §102

The Office Action rejected Claims 1-3, 9-13, 15, 17-18, 21-25, 78-28, 71-74, 76, 83-84, and 87-88 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,005,167 by Arthurs et al. (“*Arthurs ‘167*”). Applicant respectfully traverses these rejections for the reasons discussed below.

Amended Independent Claim 1 is allowable because *Arthurs* '167 fails to disclose, expressly or inherently, an “optical signal comprising at least a portion of the at least one packet received by the line card associated with that optical transmitter and at least a portion of the control signal from the control circuitry of the line card associated with that optical transmitter.” (Emphasis Added). To the best of Applicants knowledge, neither *Arthurs* '167 nor any of the other cited references, alone or in combination with one another, disclose, teach, or suggest an optical signal comprising both a packet and a control signal. Accordingly, independent Claim 1, and its dependents, Claims 2-4, 15-17, and 23-31, should be allowed. Independent Claims 32, 38, 43, 49, 58, 64, and 71, and their dependents, 33-34, 37, 38-42, 44-48, 50-57, 59-63, 65-70, 73-77, and 85, should be allowed for analogous reasons.

Other Rejections under – 35 U.S.C. §103

The Office Action rejected a variety of other claims over a variety of different references. To defeat a patent under 35 U.S.C. § 103, “the prior art reference must teach, disclose, or suggest all the claim limitations.” *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991); M.P.E.P. § 706.02(j). Applicant respectfully submit that none of the cited references, taken alone or in combination, teach or suggest, either expressly or inherently, a number of elements of independent Claims. In particular, none of the references cited by the Examiner teach or suggest an “optical signal comprising at least a portion of the at least one packet received by the line card associated with that optical transmitter and at least a portion of the control signal from the control circuitry of the line card associated with that optical transmitter.” (Emphasis Added). Applicant request withdrawal of these rejections for reasons analogous to above.

New Claims

Applicant has submitted new Claims 89-116. New Claims 89-116 are all dependents of independent claims, identified above. Accordingly, New Claims 89-116 should be allowed.

No Waiver

All of Applicant's arguments and amendments are without prejudice or disclaimer. Additionally, Applicant has merely discussed example distinctions from the *Arthurs*

reference. Other distinctions may exist, and Applicant reserves the right to discuss these additional distinctions in a later Response or on Appeal, if appropriate. By not responding to additional statements made by the Examiner, Applicant does not acquiesce to the Examiner's additional statements. The example distinctions discussed by Applicant are sufficient to overcome the anticipation rejections.

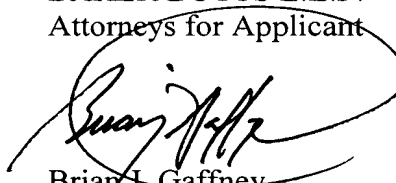
CONCLUSION

Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests full allowance of all pending Claims.

Applicant has attached a one-month extension of time to file this Response. The Commissioner is hereby authorized to charge the fee of \$60.00 to Deposit Account No. 02-0384 of Baker Botts L.L.P. The Commissioner is also authorized to charge any additional fee or credit any overpayment to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

If the Examiner feels that a conference would advance prosecution of this Application in any manner, Brian J. Gaffney stands willing to conduct such a telephone interview at the convenience of the Examiner. Mr. Gaffney may be reached at (214) 953-6682.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorneys for Applicant



Brian J. Gaffney
Reg. No. 51,712

Correspondence Address:

Customer No.

05073

Date: Nov. 28, 2005